IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION APPLICATION NO.62 OF 2006

Mrs.Ramona Pinto Alias Ramona D'souza ..Applicant

V/s.

Denzil D'souza & ors. ..Respondents

Shri.Gaurav Joshi with Mrs.S.S. Surve i/b Little & Co. for the applicant.
Shri.N.N. Seerwai with Rahul Chitnis i/b Khatri & Co. for the respondents.

CORAM : D.K. DESHMUKH, J.
DATED : 08/09/2006

P.C.:-

1. This application is made for the appointment of the arbitrator U/s.11(4) and (6) of the Arbitration and Conciliation Act, 1996. There is arbitration clause in the partnership deed. Contention of the respondents is that applicant has ceased to be a partner because of retirement and therefore, according to the respondents arbitration clause is not available to her. The applicant is relying on the entry in the register maintained by the registrar of the firm. That entry shows that even today applicant is shown as partner of the firm.

2. A perusal of the provisions of 68 of Partnership

Act and ruling of this Court in the case of **Smt. Rasilaben Kantilal Kansare V/s. Amartlal Babubhai Kocha and others reported in 1987(3) Bom.C.R.620** shows that entry made in the register maintained by registrar of firms is conclusive and therefore, contention of the respondents that applicant is no longer partner of the firm can not be accepted. If the applicant continued to be partner of the firm, then admittedly, there is arbitration clause and therefore, arbitral tribunal will have to be constituted.

3. The applicant has already appointed Mr.M.L. Pendse as her nominee. The respondents have not appointed any nominee on the arbitral tribunal and therefore, court will have to appoint nominee of the respondents on the arbitral tribunal. I sought suggestions from the counsel of the respondents about the person whom they will like to be appointed as their nominee on the arbitral tribunal. Learned counsel for the respondents declined to give their nominee on the arbitral tribunal. Therefore, Hon'ble Mr.Justice S.C. Pratap(retired) is appointed as nominee of the respondents on the arbitral tribunal. Now two

arbitrators namely Mr.M.L. Pendse and the Hon'ble Mr.Justice S.C. Pratap(retired) shall appoint third arbitrator. Application is disposed of.

4. At this stage request is made that the arbitrator should be directed not to take any proceedings for a period of eight weeks. Constitution of the arbitral tribunal is not yet complete and therefore, there is no question of considering the request. Request is unreasonable and therefore rejected.

(D.K. DESHMUKH, J.)